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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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04/13/2004

Julious A. Myers

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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/822,992

Applicant(s)

MYERS, JULIOUS A.

Examiner

Corey N. Skurdal

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3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: it is unclear in light of Figure 3 and the Specification, specifically regarding claims 1 and 8, what each pivot assembly is connected to. The specification simply states that there are 4 parallel pivot assemblies 72, 74, 76, and 78, and not which pivot assembly is considered the 1st, 2nd, 3rd, and 4th pivot assembly. It is unclear as to what is claimed by the pivot assemblies and to what they are attached to. Appropriate correction is required.
2. The disclosure is objected to because of the following informalities: page 8 line 13 the "cotter pins 84" should read "cotter pins 82". Appropriate correction is required.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: the body 11 of page 6 lines 10 and 11; a fourth piano hinge 36 on page 7 line 6; and the holes 25 on page 10 line 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 8-11, there is confusion as to how and where the four pivot assemblies are connected to the lug, bracket, and container. In particular, based on claim 11, reference numeral 76 must be the fourth pivot assembly and reference numeral 72 must be the third pivot assembly, as pivot 76 is attached to the top of the container. Claim 10, then indicates that reference numeral 74 is the second pivot assembly, as the third pivot is between the second pivot on the lug and the bracket, which in turn leaves reference numeral 78 to be the first pivot assembly. However, claim 8 indicates that both the first and second pivots are connected to the lug, while claims 9-11 indicate otherwise. Examiner recommends that the Applicant carefully review the claims and specification, so as to distinctly define how the pivot assemblies are connected to the lug, bracket, and container.

Claim 12 recites the limitation "the first hinge assembly end" in line 1. There is insufficient antecedent basis for this limitation in the claim. The wording of the claim indicates that there are in fact two hinge assemblies while only one has been claimed. It

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is assumed for examination that the claim should read, "wherein the hinge assembly is attached to the bracket in proximity to the bend."

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanson (US 1,941,860).

Regarding claim 1, Hanson discloses a container comprising a body, a top 31, and a hinge assembly, the body comprising a front 3, a back (26), a bottom (plates 8 and 9), a first and second side (each having plates 14 and 15), wherein each of said front, back, and sides are pivotally connected together (multiple hinges 10, 11, 16, 23, and 24, and latches 29) to define an open box, the box being movable between a first formed position (Figure 1) and a second collapsed position (Figure 2); the hinge assembly comprises a first pivot assembly 30 and a second pivot assembly on bracket 6 (see Examiners Figure 1 below); the hinge assembly enabling the top to be positioned flat against the body (Figure 2) when the box is in the collapsed position.

Regarding claim 2, the front, back, bottom, and sides are foldable relative to the top so as to lie flat against the top when collapsed (Figure 1).

Regarding claim 3, the container comprises bracket 6 to which the body is pivotally connected (lines 57-59) by said second pivot assembly, the bracket being capable of attachment to a mounting surface (lines 59-61).

Regarding claim 4, the bracket 6 comprises an upper and lower end, wherein the upper and lower end are adjustably or telescopically connected such that one could form a bend at the meeting ends, and wherein the upper end is attached to a mounting surface of the vehicle 1 (see Examiners Figure 1).

Regarding claim 12, the second pivot assembly of the hinge assembly of Hanson is attached to the bracket in proximity to the bend, effectively satisfying the claims.

Regarding claim 13, Hanson discloses a body (a front 3, a back (26), a bottom (plates 8 and 9), a first and second side, each having plates 14 and 15), a top 31, and a bracket 6 comprising an upper and lower end, wherein the upper and lower end are adjustably or telescopically connected such that one could form a bend at the meeting ends, and wherein the upper end is attached to a mounting surface of the vehicle 1, and the lower end being pivotally connected to the container (see lines 50-61 and Examiners Figure 1).

7. Claims 1, 2, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Armenia (US 2,573,089).

Regarding claim 1, Armenia discloses a container comprising a body (1-4), a top 5 and a hinge assembly (Figure 4), wherein the body comprising a front 2, a back 3, a bottom 1, and a first and second side 4, each pivotally connected together to define an open box, the box being selectively moveable between a first position in which the box

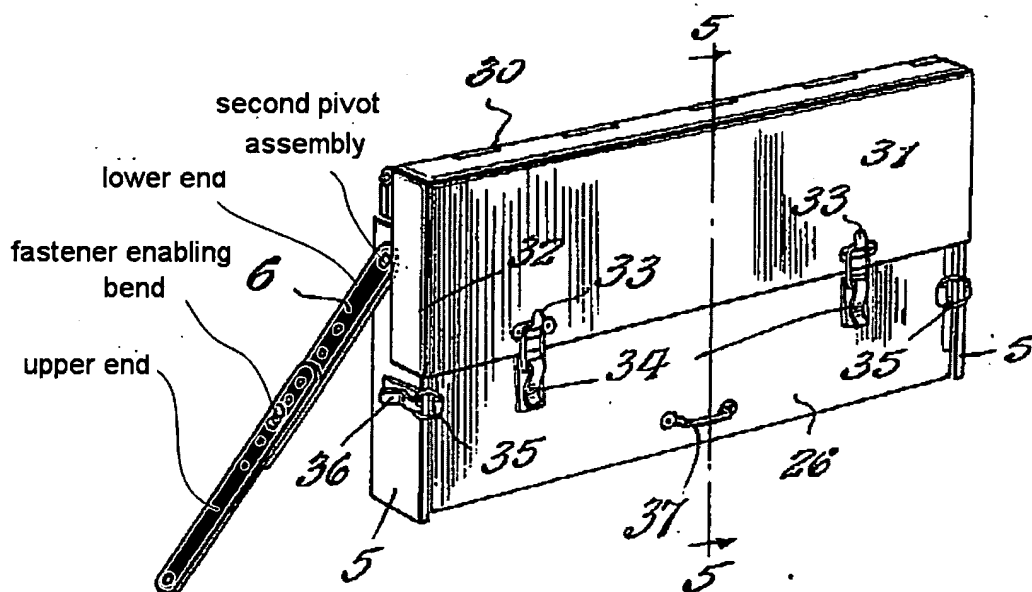
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is formed (Figure 3) and a second position (Figure 1) in which the box is collapsed, the hinge assembly (Examiners Figure 2) having a first pivot assembly A connected to the top 5 and a second pivot assembly C connected to the body, the hinge assembly enabling the top to be positioned flat against the body when in the collapsed position.

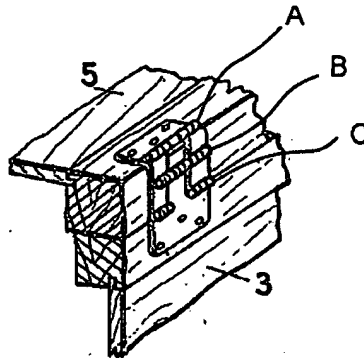
Regarding claim 2, the front, back, bottom, and sides are foldable relative to the top so as to lie flat against the top when collapsed (Figure 1).

Regarding claims 14 and 15, Armenia discloses the claimed invention as applied to claim 1, and wherein the body further comprises a lip 32 formed along an edge of the bottom, the lip elevating the pivot point of the front 2 such that the container is substantially flat when the box is in the collapsed position.

EXAMINERS FIGURE 1



Examiners Figure 2



Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Kennedy (US 1,294,673).

Regarding claims 5-7, Hanson discloses the invention substantially as claimed but does not disclose what structure is used to mount the carrier to the mounting surface, in particular lacking a brace. However, Kennedy teaches a similar collapsible carrier attached to the back of a vehicle, the carrier having a bracket 10 attached to a vehicle rack/mounting surface 9. The bracket 9 is secured to the vehicle rack/mounting surface 9 through bolts 11 and 12, wherein the bolt further includes a nut placed behind the mounting surface and being considered by Examiner to constitute a brace.

Furthermore, the bolt mounting mechanism is considered by Examiner to be a universal

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mount, in that it is certainly capable of being attached to a variety of vehicle racks which have holes drilled there through. Therefore, it would have been obvious to one skilled in the art at the time of invention to mount the bracket of Hanson to a vehicle rack via a bolt and nut in order to securely and removably hold the carrier on a vehicle.

Allowable Subject Matter

10. Claims 8-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

CNS
1/30/2007